



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GARY EWING,
Plaintiff,

v.

J. RUANO, et al.,
Defendants.

Case No. CV 09-08471 VAP (AN)

ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has conducted a *de novo* review of the pleadings and all other papers in this case, including the Magistrate Judge's Report and Recommendation ("R&R") and Plaintiff's Objections thereto.

The Court finds the Objections fail to refute the findings and conclusions set forth in the R&R. Further, Plaintiff's request for a fifth opportunity to raise an Eighth Amendment claim against the defendants is based upon more conclusory allegations (see Objections at 3), not specific facts, that do not raise a plausible Eighth Amendment claim against any of the defendants for the reasons expressed in the R&R. Accordingly, the Objections are overruled, the R&R is approved and adopted, and the Clerk is directed to enter a judgment dismissing the complaint without leave to amend.

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1 IT IS FURTHER ORDERED that the Clerk of the Court shall serve a copy of this
2 Order and the Judgment on Plaintiff.
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5 DATED: March 10, 2010
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VIRGINIA A. PHILLIPS
UNITED STATES DISTRICT JUDGE